

NEVADA ENVIRONMENTAL COMMISSION

STATE FISCAL YEAR 1995

JULY 1, 1994 TO JUNE 30, 1995

QUARTERLY REPORTS

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

**QUARTERLY REPORT  
NEVADA ENVIRONMENTAL COMMISSION  
PERIOD OF JULY through SEPTEMBER 1994  
1ST QUARTER SFY 1995**

The Environmental Commission held one regulatory meeting during the 1st quarter, with the hearing held in Carson City. Below is summary of performance measures output for the Commission during the quarter and year to date (1st, 2nd, 3rd, 4th) quarter of state fiscal year 1995.

State Environmental Commission	1st	2nd	3rd	4th	Total
Number of public hearings	1	0	0	0	1
Number of appeal hearings	0	0	0	0	0
Number of regulations adopted	5	0	0	0	5
Number of ratification	3	0	0	0	3

**Commission Hearings**

The Environmental Commission meeting of August 11, 1994 was held at the Nevada State Library in Carson City. Five petitions (94013, 94014, 94015, 94016 and 94017) were adopted by the Commission. Petition 94020 was also on the agenda, however the Commission acted to continue this petition item for six months. The petition dealt with fee increases for the Chemical Accident Prevention Program.

**Summary of Adopted Regulations**

- A. **Petition 94013** permanently amended the Nevada Administrative Code 445.1341 through 445.13421, for revisions to the water quality standards on the Carson River from Stateline to Weeks. The petition revised the water quality standards for pH, total nitrogen, turbidity, total dissolved solids, chlorides and fecal coliform.
- B. **Petition 94014** permanently amended the Nevada Administrative Code 445.6615, by the repeal of an adopted reference to "Threshold Limit Values and Biological Exposure Indices for 19887-1988". The reference has been superseded by other changes to the State's air quality operating permit.

- C. **Petition 94015** permanently amended Nevada Administrative Code 445.240 by updating the reference to the phone number of the Division of Environmental Protection concerning unscheduled releases to the environment involving hazardous waste, pollutants, contaminants or petroleum products.
- D. **Petition 94016** permanently amended Nevada Administrative Code 444.8632 by adopting 40 CFR Parts 2, Subpart A, 124, Subparts A and B, Parts 260 to 270, inclusive and Part 279 as those sections existed on July 1, 1994. The amendments updated the state's authority to receive authorization from the U.S. EPA regarding new provisions of the resource Conservation & Recovery Act (RCRA) adopted since July 1, 1994.
- E. **Petition 94017** permanently amended Nevada Administrative Code 444.8458 by expanding the conditions under which a person who proposes to construct or operate a new or expanding facility for the management of hazardous waste must seek a certificate of designation from the administrator of the Division of Environmental Protection.

#### Settlement Ratification

MAJOR FINES NOAV #	COMPANY	AMOUNT \$	COUNTY
1. #1078	Moltan Company	\$ 3,000	Lyon
2. #1080	US Gypsum Company	500	Humboldt
Totals		\$ 3,500	

**QUARTERLY REPORT  
NEVADA ENVIRONMENTAL COMMISSION  
PERIOD OF OCTOBER THROUGH DECEMBER 1994  
2ND QUARTER SFY 1995**

The Environmental Commission held one regulatory meeting during the 1st quarter, with the hearing held in Las Vegas. Below is summary of performance measures output for the Commission during the quarter and year to date (1st, 2nd, 3rd, 4th) quarter of state fiscal year 1995.

State Environmental Commission	1st	2nd	3rd	4th	Total
Number of public hearings	1	1	0	0	2
Number of appeal hearings	0	0	0	0	0
Number of regulations adopted	5	2	0	0	7
Number of ratification	3	3	0	0	6

**Commission Hearings**

The Environmental Commission meeting of November 9, 1994 was held at the Clark County Charleston Branch Library in Las Vegas. Two petitions (94019 and 95001) were amended and adopted by the Commission.

**Summary of Adopted Regulations**

- A. **Petition 94019 (LCB R116-94)** permanently amended the Nevada Administrative Code 444.648 and added amendments to 444A.010 through 444A.140 for regulations governing waste tire disposal. The amendments covers procedures to permit tire recycling facilities, provide for the development of a registration system for waste tire haulers, and establishes standards for the disposal of waste tires at disposal sites.
- B. **Petition 95001** temporarily amended Nevada Administrative Code 445.430 through 445.846, by modification of the effective dates of Nevada's Air Quality Operating Permit Program by extending the date of implementation from November 14, 1994 to a date in the future based on the U.S. EPA Administrator's approval of program. In addition, references in the regulations to Permits to Construct were deleted and supplanted with references to Operating Permits.

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SFY 1995 2ND QUARTER REPORT**

The Division of Environmental Protection withdrew petition 94018 from consideration prior to the November 9, 1994 hearing. This petition dealt with permanent amendments to NAC 444 regarding the addition of Class IV solid waste landfills to the Nevada Administrative Code.

Petition 94020 is also pending from the August 11, 1994 hearing, however the Commission acted to continue this petition item for six months. The petition dealt with fee increases for the Chemical Accident Prevention Program. This petition will be before the Commission at the proposed February 16, 1995 hearing in Reno.

The Commission also acted to adopt the 1994 Handbook of Best Management Practices at the November 9, 1994 hearing. This handbook was also adopted by the State Conservation Commission on September 21, 1994.

**Settlement Ratification**

MAJOR FINES NOAV #	COMPANY	AMOUNT \$	COUNTY
1. #1077	Smitten Oil & Tire Co.	\$ 2,500	Churchill
2. #1119	Nevada Gold Mining, Inc.	500	Humboldt
3. #1130	FNF Mining	2,500	Elko
QUARTERLY TOTALS		5,500	
FISCAL YEAR 1995 TOTALS		\$ 9,000	

**AS PREPARED BY**

David R. Cowperthwaite  
Executive Secretary  
January 10, 1995

**QUARTERLY REPORT  
NEVADA ENVIRONMENTAL COMMISSION  
PERIOD OF JANUARY THROUGH MARCH 1995  
3RD QUARTER SFY 1995**

The Environmental Commission held one regulatory meeting during the 3rd quarter, with the hearing held in Reno. Below is summary of performance measures output for the Commission during the quarter and year to date (1st, 2nd, 3rd) quarter of state fiscal year 1995.

State Environmental Commission	1st	2nd	3rd	4th	Total
Number of public hearings	1	1	1	0	3
Number of appeal hearings	0	0	1	0	1
Number of regulations adopted	5	2	4	0	11
Number of ratification	3	3	4	0	10

**Commission Hearings**

The Environmental Commission meeting of February 16, 1995 was held at the Nevada Division of Wildlife Conference Room in Reno. Four petition; 95002, 95003, 95004, 95005 were amended and adopted by the Commission.

**Summary of Adopted Regulations**

- A.     Petition 95002** is a temporary regulation amending Nevada Administrative Code (NAC) 445B.327, Fees: General Requirement. The regulation amended fees charged to facilities emitting air emissions that require operating permits or annual service and maintenance. The fee rates for state fiscal year 1996 and 1997 are kept at the level established for state fiscal year 1995. This petition reduced the rates paid by stationary sources during the next biennium.
- B.     Petition 95003** temporarily amended Nevada Administrative Code 486A.030 to allow the Administrator of the Division of Environmental Protection to determine whether fuels not previously adopted by Commission meet the clean alternative fuel definition. This temporary regulation also added new language to NAC 486A that defines the standards that would be applied by the Administrator of the Division of Environmental Protection to determine whether a fuel is a clean alternative fuel.

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**SFY 1995 3RD QUARTER REPORT**  
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- C.      Petition 95004** temporarily amended NAC 445B.221 by the adoption by reference of the provisions of 40 C.F.R Part 72, the acid rain provisions of the Clean Air Act. The proposed temporary regulation extended the Title V Operating Permit program provisions to cover sources that could potentially be regulated by the federal acid rain program.
  
- D.      Petition 95005** temporarily amended NAC 445B.362 and 445B.363 by changing the formula for calculating emissions of particulate matter. This petition provides regulatory relief to sources of air pollution by correcting the method used to calculate PM<sub>10</sub> emissions.

Petition 94020 was withdrawn for consideration by the Division of Environmental Protection at the February 16, 1995 hearing. It was business pending from the August 11, 1994 hearing, however the Commission acted to continue this petition item for six months. The petition dealt with fee increases for the Chemical Accident Prevention Program.

The Commission at the February 16, 1995 also approved the final report prepared by the Division of Environmental Protection and the Nevada Department of Taxation for the consolidation of fees and services related to underground storage tanks. This report was mandated by Senate Bill 127 of the 1993 session of the Nevada Legislature.

The Commission also received two new members at the February 16, 1995 hearing; Robert Rose, the designee from the State Board of Health (replacing Commissioner Bentley) and Jack Armstrong, Acting Administrator of the Division of Agriculture (replacing Commission Tom Ballow).

### **Appeal Hearings**

The Environmental Commission had one appeal during the quarter. This hearing was on February 8, 1995 in Reno, Nevada. The Chairman of the panel was Commission Fields with Commissioners Gifford and Commissioner Turnipseed. Below is a summary of the issues in the hearing and the outcome.

Santa Fe Pacific Pipeline Partners, Ltd., 888 South Figueroa St., Los Angeles, CA 90017; Unocal Corporation, Union Oil Center, Los Angeles, CA, 90017; Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA, 94105; Shell Oil Company, P.O. Box 4848, Anaheim, CA, 92803; Berry-Hinkley Terminal Inc., 147 South Stanford Way, Sparks, NV, 89431; Texaco Refining and Marketing Inc., 10 Universal City Plaza, Universal City, CA, 91608; Time Oil Company, P.O. Box 24447, Seattle, WA, 98124; and Chevron U.S.A. Inc., 575 Market St., San Francisco, CA, 94105 appeals the issuance of Authorization to Discharge (NPDES Permit) No. NV0020893 by the Division of Environmental Protection.

The Division of Environmental Protection issued water pollution control permit NV0020893 on December 15, 1994 for the dewatering of a sand and gravel pit to control the migration of a plume of contamination in the groundwater. The quarry pit is located at 790 E. Lincoln Way, Sparks, Nevada, 89431 a.k.a. the Helms Pit. The Division asserted that it issued the permit correctly and in compliance with the provisions of the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. seq) and Chapter 445 of the Nevada Revised Statutes.

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The appellants asserted that the Helms pit discharge is exempt from the NPDES permit requirements under the permit exemption in Section 121(e) of the Comprehensive Environmental Response Compensation, and Liability Act ("CERLA"), 42 U.S.C. § 9621(e); and that the Division of Environmental Protection had no authority to name as permittee, parties who did not submit an application for a permit; and that the Division lacks jurisdiction under the Federal Clean Water Act and the Nevada Water Pollution Control Law to establish effluent limitations in an NPDES permit for pollutants which occur in the groundwater as a result of upgradient nonpoint sources of pollution. In addition, Time Oil asserts that it has not contributed to any contamination that has migrated offsite from the Sparks pipeline terminal and that it should not be required to assume responsibility for controlling offsite contamination.

It was ordered that Appellants' motion to continue the first two issues raised on appeal be GRANTED without a stay pending the outcome of the Nevada Supreme Court's decision on these matters. In addition it was ordered that NPDES permit number NV0020893 be upheld, including the limits set for the discharge of nitrogen, phosphorous and total dissolved solids. It was also ordered that the appeal hearing be rescheduled at the earliest possible date following the Nevada Supreme Court's decision in the aforementioned matter unless any unresolved issues have been settled through a consent decree involving all of the remaining permittees and NDEP or unless the appeal had withdrawn by all of the named appellants.

A rehearing was requested, with a hearing occurring on April 3, 1995.

**Settlement Ratification**

MAJOR FINES NOAV #	COMPANY	AMOUNT \$	COUNTY
1. #1120	Calhoon Sand & Gravel	\$ 1,500	Nye
2. #1125	The Thatcher Co.	4,000	Elko
3. #1145	West America Membranes Inc.	5,000	Lyon
3. #1134	Ames Construction Co.	500	Elko
QUARTERLY TOTALS		11,000	
FISCAL YEAR 1995 TOTALS		\$20,000	

AS PREPARED BY  
David R. Cowperthwaite, Executive Secretary  
April 6, 1995



**QUARTERLY REPORT  
NEVADA ENVIRONMENTAL COMMISSION  
PERIOD OF APRIL THROUGH JUNE 1995  
4TH QUARTER SFY 1995**

The Environmental Commission held two regulatory meetings during the 4th quarter, with one hearing in Reno and the second hearing in Las Vegas. In addition, the Commission participated in a field trip to the Nevada Test Site, one appeal hearing and one appeal reconsideration occurred during the quarter. Below is a summary of performance measures output for the Commission during the quarter and year to date (1st, 2nd, 3rd, 4th quarters) of state fiscal year 1995.

State Environmental Commission	1st	2nd	3rd	4th	Total
Number of public hearings	1	1	1	2	5
Number of appeal hearings	0	0	1	1	2
Number of regulations adopted	5	2	4	8	19
Number of ratification	2	3	4	4	13

**Regulatory Commission Hearings**

The Environmental Commission meeting of April 5, 1995 was held at the Nevada Division of Wildlife Conference Room in Reno. Five temporary petitions; 95006, 95007, 95008, 95009, and 95010 were adopted by the Commission. The Environmental Commission meeting of June 20, 1995 was held at the Grant Sawyer State Office Building in Las Vegas. Three temporary petitions; 95011, 95012 and 95013 were adopted at the hearing.

**Summary of Adopted Regulations**

- A.     Petition 95006** temporarily amended NAC 445A.243 and 445A.244 of the water pollution control regulations to make existing regulations be consistent with current federal EPA regulations. NAC 445A.243 was amended by the deletion of the requirement that effluent limitations be expressed by weight in discharge permits. NAC 445A.244 is proposed to be repealed and supplanted with amendments to provide specific authority for the water pollution discharge permits to include compliance schedules. NAC 445A.297(b) was amended to delete the requirement that U.S. EPA's Regional Administrator provide prior approval of point source discharge mixing zones.

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- B.     Petition 95007** temporarily amended the State's hazardous waste regulation NAC 444.8427 "Facility for community recycling" and NAC 444.84275 "Facility for community storage" by updating references that directly relates to 40 C.F.R 262.41 as those federal regulations existed on March 1, 1995. In addition NAC 444.850 "Definitions" and 444.8632 "Compliance with federal regulations adopted by reference" are also amended to reflect federal regulations as existing on March 1, 1995. The cost of federal publications referenced in NAC 444.8632 have been updated.
- C.     Petition 95008** temporarily amended NAC 444.570 to 444.7499 the solid waste regulations to extend the date by which disposal sites must obtain financial assurance from April 9, 1995 to April 9, 1996. In addition reference to incorrect citations of the Nevada Administrative Code in NAC 444.684, 444.6852 and 444.731 are corrected. NAC 444.692 is amended to remove a inappropriate reference to the term "solid sewage". NAC 444.711 and 444.7481 were also amended to clarify the criteria to comply with ground water monitoring requirements for Class II disposal sites.
- D.     Petition 95009** temporarily amended NAC 445A.070 to 445A.348 to revise and establish water quality standards for the lake and tributaries of the Nevada portion of the Lake Tahoe Basin. The new standards prescribe the beneficial uses and numeric criteria for; total nitrogen, nitrite, temperature, a biological "escherichia coli" value, total dissolved solids, sulfates, turbidity, sodium absorption, ph, total phosphates, ammonia, and chloride. NAC 445A.122 was amended to add extraordinary and aesthetic value and enhancement of downstream waters as standards applicable for beneficial uses.
- E.     Petition 95010** is a temporary amendment to NAC 445B.001 to 445B.395, the state air pollution regulations. The amendments modify and clarify references to "air contaminant" or "air pollutant" to address "regulated air pollutant". In addition references to "source" are proposed to be changed to "stationary source" or "major source". The term portable source in NAC 445B.137 was deleted and substituted with "temporary source". Other definitions clarified include "regulated air pollutant" and "stationary source". The reporting of excess emissions in NAC 445B.232 is clarified and various provisions in the regulations are extended beyond current sunset dates. NAC 445B.327 was clarified such that service and maintenance fees are charged by emission units and not by permitted sources. NAC 445B.295 was amended to provide authority to the Director to establish a list of insignificant activities based upon "de minimis" emissions.
- F.     Petition 95011** temporarily amended the Nevada Administrative Code (NAC) 445B.875 to 445B.897 "Practice Before the Commission" to add a new provision to clarify procedures and establish the conditions for rehearing or reconsideration of Commission appeal hearings.
- G.     Petition 95012** temporarily amended NAC 445B.400 to 445B.735 to eliminate the requirements and references for the vehicle emission "enhanced inspection" program previously adopted by the Commission. The I/M program is scheduled to be implemented in the Las Vegas Valley. NAC 445B.730, 445B.732 and 445B.733 were repealed and 445B.592 was amended to exempt new motor vehicles from the requirements of an emissions inspection until the third registration.

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- H. **Petition 95013** temporarily amended Nevada Administrative Code 444.570 to 444.7499 "Disposal of Solid Waste". The proposed regulation grants a two year extension of the general effective date for new landfill standards for Class II solid waste landfills from October 9, 1995 to October 9, 1997. Amended was NAC 444.711, 444.716, 444.7045 and 444.717.

**Appeal Hearing**

The Environmental Commission had one appeal during the quarter. This hearing was on April 20, 1995, in Las Vegas, Nevada. The Chairman of the panel was Vice Chairman Molini with Commissioners Griswold and Commissioner Jones rounding out the panel. Mr. Richard Hayes, owner and operator of American Wholesale Block, Pahrump, Nevada, appealed the issuance of the Notice of Alleged Violation (FOAV) and Order # 1139 and # 1140 dated November 16, 1994 and January 30, 1995 by the Nevada Division of Environmental Protection's Bureau of Air Quality.

The Division of Environmental Protection on November 16, 1994 and January 30, 1995 issued NOAV # 1139 which alleged that American Wholesale Block had fugitive dust emissions from a sand and gravel operation located at Pahrump, Nevada. The Division asserted that American Wholesale Block violated NAC 445.734, revised as NAC 445B.365. In addition the Division, on October 7, 1994, issued NOAV # 1140 that asserts that American Wholesale Block was constructing and operating an aggregate screening plant without a permit, a violation of NAC 445.704, revised as NAC 445B.287.

The appellant asserted that the Division has acted in a capricious manner and without regard to common sense and fair dealing. In addition, Mr. Hayes asserts that the Division has attempted to unfairly restrict trade. Mr. Hayes does not agree that violations have occurred.

The Commission acted to uphold the two violations as issued by the Bureau of Air Quality. The Commission also acted to waive the fine of \$ 125 as defined in NOAV # 1139, and levied a fine of \$ 500 for violation of NOAV # 1140.

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**Reconsideration and Re-Hearing**

The Environmental Commission had one reconsideration hearing on April 3, 1995 in Reno, Nevada. The panel was composed of Commissioner Fields, acting as Chairman, and Commissioners Gifford and Turnipseed.

The petition of Santa Fe Pacific Pipeline Partners, Ltd., Los Angeles, CA; Unocal Corporation, Union Oil Center, Los Angeles, CA;; Southern Pacific Transportation Company, San Francisco, CA;; Shell Oil Company, Anaheim, CA;; Berry-Hinkley Terminal Inc., Sparks; Texaco Refining and Marketing Inc., Universal City, CA;; Time Oil Company, Seattle, WA;; and Chevron U.S.A. Inc., San Francisco, CA, for rehearing regarding the decision of the State Environmental Commission issued on March 3, 1995 regarding NPDES permit No. NV0020893 (Helms Pit Dewatering).

The Commission acted to uphold the original finding and order. Subsequently the appellents have filed in the Nevada District Court regarding the Commissions decision.

**Commission Field Trip**

On May 4, 1995, three Commissioners went to the Nevada Test Site. The tour focused on current activities at the Nevada Test Site. The Nevada Test Site is in part regulated by the Nevada State Environmental Commission through the Federal Facility Compliance Act of 1992.

**Filing of Regulations**

On June 26, 1995 the temporary regulations adopted by the Environmental Commission were submitted to the Legal Division of the Legislative Counsel Bureau for drafting as permanent regulations.

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**Additional Discussion**

The Commission on June 20, 1995 acted to exempt the City of Mesquite from the requirements of the Fleet Vehicle Alternative Fuels Program (NAC 486A) for a period of five years. In addition the Commission heard a presentation from staff regarding the Air Quality Compliance Advisory Panel as required by the Clean Air Act. The Commission solicited for public testimony regarding the Panel. No testimony was received from the general public regarding the formation of the Panel.

**Settlement Ratifications**

MAJOR FINES NOAV #	COMPANY	AMOUNT \$	COUNTY
1. #1151	Desert Lakes Subdivision	\$ 510	Lyon
2. #1152	Advanced Scientific Solutions	450	Lyon
3. #1160	Kennecott Rawhide Mining Company	900	Mineral
3. #1156	Sierra Stone Co./All-Lite Aggregate	4,180	Storey
QUARTERLY TOTALS		6,040	
FISCAL YEAR 1995 TOTALS		\$26,040	

AS PREPARED BY  
David R. Cowperthwaite, Executive Secretary  
July 5, 1995